

REMARKS/ARGUMENTS

Claims 1-19 are pending. In the Office Action dated October 15, 2008, claims 1, 2, 4-10, 12, 13, and 15-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,968,184 to Criss and U.S. Patent No. 7,350,191 to Kompella; and claims 3, 11, 14, and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Criss and Kompella, and further in view of Official Notice.

A. The Kompella Patent

The Kompella patent has a filing date of April 22, 2003. According to information from the publicly-available EFS database, the Kompella patent has no earlier priority date. In contrast, the pending patent application has a filing date of April 7, 2004 but claims priority to the provisional application filed on April 7, 2003. Thus, the earliest priority date of the pending application is fifteen days earlier than Kompella's filing date.

The claims of the pending application are supported by the provisional application and are entitled to the April 7, 2003 priority date. For example, at page 3 of the provisional application, the subscription process and metadata are described, and at page 4 the change management and re-subscription are described. Further descriptions are provided in the Appendix documents, which include Appendix A comprising the Field Services Application "ForceFlow Guide", Appendix B comprising the Executive Summary "Powering Mobile Enterprise Applications document", Appendix C comprising a Synchronization Overview, and Appendix D comprising a "Data Architecture" document.

It is therefore asserted that Kompella should be removed as a reference against the pending patent application and the rejection under 35 U.S.C. § 103(a) based on the combination of the Criss patent and the Kompella patent should be withdrawn.

B. The Law of Obviousness

Notwithstanding the removal of Kompella as a reference, Applicants will proceed to respond to the obviousness rejection, in view of the obviousness rejection of claims 3, 11, 14, and 19 that were partially supported by "Official Notice", and to recount the shortcomings of Criss with respect to the claims, as previously described in the Amendment filed June 15, 2008.

As set forth in M.P.E.P. § 2141 (I), the policy of the Office is to determine obviousness under 35 U.S.C. § 103 in accordance with *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1 (1966). The *Graham* court noted the factual inquiries for determining obviousness: (A) determining the scope and content of the prior art; (B) ascertaining the differences between the prior art and the claims in issue; and (C) resolving the level of ordinary skill in the pertinent art. In addition, evidence of secondary considerations must be evaluated when present. Recently, the U.S. Supreme Court affirmed the holding of *Graham* regarding obviousness. See *KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 82 USPQ2d 1385 (2007).

To establish a *prima facie* case of obviousness, the Office recognizes that three criteria must be met:

- (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings;
- (2) there must be a reasonable expectation of successfully making the combination; and
- (3) the cited art must teach or suggest all the claim limitations.

See M.P.E.P. § 2143, Examples of Basic Requirements of a *Prima Facie* Case of Obviousness. It is noted that, in determining whether the claim limitations have been met, all the words in a claim must be considered in judging the patentability of that claim against the prior art (see M.P.E.P. § 2143.03 (quoting *In re Wilson*, 424 F.2d 1382, 1385, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970)(emphasis added)).

C. Missing Claim Limitations

In ascertaining the differences between the cited art and the claims in issue, the cited references do not teach or suggest all the claim limitations, taking into account all the words in the pending claims. Claim 1 will be discussed below, though it is noted that all the independent claims (1, 7, 12, 18) have similar limitations as those that will be discussed with respect to claim 1.

Claim 1, as previously presented, is provided below in its entirety:

1. A method of change management for a mobile data system having a mobile client device that shares data with multiple enterprise data sources, the method comprising:

initiating change management processing in response to receiving a communication request from the mobile client device to establish communications with a server of the mobile data system, wherein the communication request includes data that identifies one or more applications installed at the mobile client device and to which the mobile client device is subscribed, and identifies metadata at the mobile client device associated with the one or more subscribed applications;

determining if an update package is available for the identified application subscribed at the client device, based on the metadata identified by the communication request wherein the metadata comprises data sufficient to define the subscribed application including Business Objects, Business Objects properties, Business Objects Rules, and Business Constants components of the identified application; and

downloading the update package to the mobile client device and updating the identified applications and associated data at the mobile client device.

None of the references teach or suggest the following features of the claims in issue:

1. **Lack of Initiating Change Management Processing in Response to Receiving a Communication Request**

Claim 1 recites “initiating change management processing in response to receiving a communication request from the mobile client device to establish communications with a server of the mobile data system”. That is, change management processing is initiated in response to each client device request to the server for establishing communication. Therefore, the server will check for application updates with every client device communication to the server. See, for example, the specification at page 45, lines 2-3 and at page 46, lines 16-17.

Criss does not respond to a request from a mobile device to establish communications by performing change management. Rather, Criss requires a special request from a mobile device for operating system “indicia” before “upgrade processing” will be performed (see column 7, lines 37-39; Fig. 7(c), column 20, lines 32-65; Fig. 14(c)). Criss does not provide any discussion or suggestion to initiate the change management process in response to a client request to establish communication with the server. The difference between initiating

change management in response to every communication request from a client and initiating upgrade processing only in response to a special request message is a fundamental difference in operating strategy. The claimed invention provides efficient change management without undue network message overhead. There would be no reason to change Criss so as to operate per the claims, absent the teachings of the present invention. The “Official Notice” in the Office Action relates only to overwriting prior versions of files upon update. Thus, the claim feature of initiating change management in response to a client communication request to establish communications is not provided by the art of record.

Therefore, considering all the words of the claims, no *prima facie* case for obviousness has been established.

2. Lack of Metadata Sufficient to Describe Components of Subscribed Applications

Claim 1 recites that an update package is determined “based on the metadata ... wherein the metadata comprises data sufficient to define the subscribed application including Business Objects, Business Objects properties, Business Objects Rules, and Business Constants components of the identified application”. This feature is supported by the specification at page 43, lines 15-18. Considering all the words of this feature, the claimed metadata of the client communication request defines components of the application identified in the communication request, including Business Objects, Business Objects properties, Business Objects Rules, and Business Constants of the application.

Criss fails to describe or even suggest receiving metadata that would be sufficient to define components of subscribed applications. There is no reason for Criss to do so. Criss merely describes that the host computer requests “indicia” from the mobile terminal that identifies which version of operating software the mobile terminal is running (see column 7, lines 37-39). Thus, Criss does not relate to the claim language that refers to (a) the mobile client device sending a communication request, (b) the communication request including metadata sufficient to identify components of a subscribed application, (c) the application is identified in the communication request. The “Official Notice” of the Office Action relates only to

overwriting prior versions of files upon update. Thus, the claim feature of determining an update package based on metadata sufficient to define components of the application identified in the communication request is not provided by the art of record.

Therefore, considering all the words of the claims, no *prima facie* case for obviousness has been established.

3. Lack of Determining and Downloading an Update Package In Response to a Communication Request that Includes Metadata

Claim 1 recites that an update package is determined “based on the metadata identified by the communication request” and recites that the update package is downloaded and then the client applications and associated data are updated. Thus, determining the update package, downloading the update package, and updating identified applications and associated data, all occur in response to “the communication request from the mobile client device to establish communications with a server.”

In contrast, Criss uses special request messages from a client to check operating software versions. Criss does not use messages that are “to establish communications with a server” and Criss does not obtain updates to subscribed applications. Criss seeks “indicia” to identify which version of operating software (OS) a client device is running (see column 7, lines 37-39). In another embodiment, Criss indicates the mobile terminal prompts the host computer to transmit back to the mobile terminal a “Package Definition Packet” including the version identifier for their operating software (column 20, lines 44-65). Clearly, such message prompts and responses occur only after communications have already been established. Moreover, the “indicia” has nothing to do with application software data, which can comprise much more numerous and complicated data than OS version number. Thus, Criss does not determine updates and download them and does not update applications in response to a communication request message to establish communications with a server.

The “Official Notice” of the Office Action relates only to overwriting prior versions of files upon update. Thus, the claim feature of determining an update package based

on metadata sufficient to define components of the application identified in the communication request is not provided by the art of record.

Therefore, considering all the words of the claims, no *prima facie* case for obviousness has been established.

4. Lack of Prima Facie Case for Obviousness for Any Pending Claims

The arguments above with respect to claim 1 apply equally to the other independent claims, comprising claims 7, 12, and 18. Thus, no *prima facie* case for obviousness has been established for any of the independent claims. The other claims depend, either directly or indirectly, from one of claims 1, 7, 12, and 18 discussed above, and are allowable at least for the reasons given above for allowance of their respective base claims. Applicants respectfully request reconsideration and allowance of claims 1-19.

In view of the foregoing, Applicants respectfully request reconsideration of the Office Action and request that the Examiner withdraw the rejection and grant an allowance of all pending claims.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858-350-6100.

Respectfully submitted,



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